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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,435	04/04/2001	Henry S. Ptasinski	42142/RJP/E264	6933
23363	7590	11/03/2004	EXAMINER	
CHRISTIE, PARKER & HALE, LLP			CHUNG, PHUNG M	
PO BOX 7068			ART UNIT	
PASADENA, CA 91109-7068			PAPER NUMBER	

2133

DATE MAILED: 11/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/826,435

Applicant(s)

PTASINSKI ET AL.

Examiner

Phung My Chung

Art Unit

2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/10/02.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

Art Unit: 2133

1. Drawings: Figures 1(a)-1(d) should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

2. The disclosure is objected to because of the following informalities:

Applicant is requested to submit all of the missing patent application serial numbers and their filing dates (see pg. 1, line 12 to pg. 2, line 5). Applicant also requested to update all of the pending patent application (for example: now abandoned, or now US Patent number...).

~~Appropriate correction is required.~~

3. Claims 1-10 are objected to because all of the method steps, for example:

receiving and decoding the header and payload segments...;  
selecting a plurality of sets...;  
encoding parameters...;  
selecting..., a set of payload encoding parameters....;  
computing a mean square error...;  
rescaling the mean squared error...; and

Art Unit: 2133

comparing the rescaled error.....,

A flow chart or flow diagram should be submitted to clearly pointout these method steps.

4. Claims 1-10 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 3-5, 7, 10-11, and 15-16 of copending Application No. 09/825,756. Although the conflicting claims are not identical, they are not patentably distinct from each other because, for example, applicant uses a slicer maximum squared error instead of a slicer sum of squared error, but the meaning is the same.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phung My Chung whose telephone number is 703-305-9686. The examiner can normally be reached on Monday-Friday from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Decady, Albert can be reached on (703) 305-9595. The fax phone number for the organization where this application or proceeding is assigned is


Application/Control Number: 09/826,435

Page 4

Art Unit: 2133

703-746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9000.



Phung My Chung  
Primary Patent Examiner  
Technology Center 2100